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EXECUTIVE SECRETARY

October 26, 2001

## VIA HAND DELIVERY

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

**Re: Rulemaking Amendments of Regulations for Telephone Service Providers  
Docket No. 00-00873.**

Dear Mr. Waddell:

Enclosed please find the original and 13 copies of the Comments of Concord Telephone Exchange, Inc., Humphreys County Telephone Company, Tellico Telephone Company, Inc., and Tennessee Telephone Company on Draft Proposed Rules Filed by TRA Staff on August 16, 2001 for filing in the above-referenced docket. Also enclosed is an additional copy of the Comments, which I would appreciate your stamping as "filed," and returning to me by way of our courier.

Should you have any questions with respect to this filing, please do not hesitate to contact me.

Very truly yours,



R. Dale Grimes

RDG/gci  
Enclosures  
cc: Certificate of Service List  
Mr. Bruce H. Mottern

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>RULEMAKING AMENDMENTS OF</b>	)	<b>Docket No. 00-00873</b>
<b>REGULATIONS FOR TELEPHONE</b>	)	
<b>SERVICE PROVIDERS</b>	)	

**COMMENTS OF CONCORD TELEPHONE EXCHANGE, INC.,  
HUMPHREYS COUNTY TELEPHONE COMPANY, TELlico TELEPHONE  
COMPANY, INC., AND TENNESSEE TELEPHONE COMPANY ON  
DRAFT PROPOSED RULES FILED BY TRA STAFF ON AUGUST 16, 2001**

**Introduction**

Concord Telephone Exchange, Inc., Humphreys County Telephone Company, Tellico Telephone Company, Inc., and Tennessee Telephone Company (collectively, "TDS TELECOM"), by their attorneys, respectfully submit their collective comments in the matter of Amendments to Chapter 1220-4-2, Regulations for Telephone Telecommunications Service Providers. In the September 29, 2000 Notice of Rulemaking, the Tennessee Regulatory Authority ("TRA") proposed an extensive overhaul of the rules for Telecommunications Service Providers. As set forth in the TRA's draft Rulemaking Amendments for Regulations for Telephone Service Providers proposed August 16, 2001, Prop. Rule § 1220-4-2-.02 ("Scope of Regulations"):

The purpose of this Chapter is to establish minimum quality of services standards and general regulations for all telecommunications service providers providing telecommunications service, as defined in this Chapter. The regulations are designed to ensure that Tennesseans continue to have access to quality telephone services in an emerging competitive telecommunications environment. This Chapter attempts to balance our state's policy of pro-competition in the telecommunications sector with the service quality expectations of our citizens as well as privacy concerns.

These are laudable goals and are appropriate to serve as a guide during this rulemaking.

TDS TELECOM recognizes that the evolutionary change experienced by the telecommunications industry since enactment of the Telecommunications Act of 1996 may spur review of existing regulations to better meet the needs of all Tennesseans. The purpose of the Telecommunications Act of 1996 is “to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers” (emphasis added). Conversely, in this time of deregulation, the proposed rules would significantly increase telecommunications service providers’ regulatory burdens and operating costs, and would require creation of new reports or modification of existing reports by adding a new rule to deal with virtually every conceivable operational situation.

Any prospective rules should be limited to their stated purpose, “establish[ment of] minimum quality of services standards” (emphasis added), and should not be targeted toward meeting expansive aspirational goals. The proposed Rules would go far beyond mandating minimum consumer quality standards, as they would regulate the internal operations and financial management of telecommunications carriers. For example, number portability and conservation policies, Link-up and Lifeline requirements would be part and parcel of the new “quality” Rules. The mechanics of the Lifeline and Link-up program may be better addressed in the universal service proceeding. The number conservation and portability issues would be best addressed in a separate docket.

Moreover, the proposed regulations have been promulgated without any factual showing or record of evidence demonstrating that there are service quality issues regarding TDS TELECOM that need to be rectified. For example, there is and has been no demonstration that TDS TELECOM has provided its customers with anything other than quality service. Further, no showing has been made in that regard and service quality reports do not indicate that TDS

TELECOM has a service quality issue. TDS TELECOM is focused on quality customer service and prides itself on the delivery of quality service, timely responses, and meeting the changing needs of its customers. TDS TELECOM offers a service guarantee program and conducts customer focus groups and customer satisfaction surveys with the intended goal of providing quality service. Notions of fundamental fairness and constitutional due process require that a full evidentiary hearing be conducted prior to the promulgation of any binding, final Rules, especially in light of the significant burdens that would be imposed on carriers.

The additional regulations and more onerous proposed standards would add to the already significant regulatory costs borne by TDS TELECOM – again where there has been no demonstration of poor service or any consumer outcry regarding the company’s service quality. As a rate-of-return company, TDS TELECOM would not be allowed to recover the increased costs from its customers without filing a successful rate case, imposing yet another layer of complexity and regulatory proceedings upon the carrier.

The purpose of this Chapter as stated is to establish minimum quality of service standards and general regulations for all telecommunications service providers. Even so, many of the proposed rules single out only incumbent carriers or those designated as eligible telecommunications carriers.<sup>1</sup> Providing quality telecommunications services to Tennessee consumers should be the responsibility of all certificated telecommunications service providers, not just those that have assumed the added responsibility of providing certain basic services throughout a defined service area.

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<sup>1</sup> For example, as drafted by the TRA staff, proposed Rule § 1220-4-2-.16(1)(o)(1) would provide for a lesser quality of service for consumers served by carriers other than ETCs. TDS TELECOM questions whether a 30- or 60-second answer time is important only to customers of ETCs.

The proposed Rules as written would serve only to burden telecommunications providers with new, onerous regulations and increased costs of compliance. This outcome would be particularly inappropriate because no systemic failure to meet minimum quality service standards on the part of telecommunications service providers such as TDS TELECOM has been demonstrated. Further, all Tennesseans would not be protected by the regulations. In short, the proposed Rules offer a complex and costly solution where no problem has been shown to exist. Therefore, the proposed Rules should not be promulgated as final Rules.

TDS TELECOM, however, joins other members of the telecommunications industry in the collective Industry Comments on Proposed Rules. TDS TELECOM has participated with other members of the industry in an effort to reach consensus where possible on the proposed Rules and suggested revisions. TDS TELECOM has had the opportunity to review the Industry Comments and concurs in those comments and revisions as they represent the common concerns of Tennessee's telecommunications providers. In addition to the Industry Comments, however, TDS TELECOM proposes the following additional changes.<sup>2</sup>

#### **TDS TELECOM Proposed Amendments to Industry Comments**

##### 1220-4-2-.01 Definitions

\* \* \*

- (26)(22) "Trouble Report" means any oral or written notification from a customer relating to a physical defect, problem or dissatisfaction with the **regulated** operations of telephone facilities. ~~One report shall be counted for each oral or written trouble report received even though it may duplicate a previous report or merely involve an inquiry concerning progress on a previous report provided that the additional report occurs greater than thirty (30) hours since the initial report. One report shall be counted for each oral or written trouble~~

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<sup>2</sup> TDS TELECOM's proposed additional changes are shown in bold typeface and double strikethrough. TDS TELECOM narrative comments are shown in italics. TDS TELECOM reserves the right to supply additional comments and/or to suggest further changes during the course of proceedings in this matter.

~~report received except to the extent it duplicates a previous report or merely involves an inquiry concerning progress on a previous report. A separate trouble report shall be counted for each problem reported when several problems are reported by one customer at the same time, unless the group of problems so reported is clearly related to a common cause.~~

*TDS TELECOM COMMENT: Without inclusion of the word "regulated," the provider could be held responsible for customer owned equipment.*

\* \* \*

1220-4-2-.03

\* \* \*

(9) Adequacy of Service Reports

Each ETC shall submit to the Authority quarterly reports in a format established by the Authority to demonstrate the ETCs compliance with the service standards set forth in 1220-4-2-.16. The reports shall be itemized by month by local exchanges. The Authority may, **for reasonable cause given**, conduct periodic audits or require the ETCs to hire an independent firm to verify the accuracy of service standard reporting.

(10) Service Trouble Reports

Each telecommunications service provider shall maintain an accurate record of trouble and repeat trouble reports made by its customers. The record shall include the customer name, the time, date and nature of the trouble along with the action taken by the telecommunications service provider to resolve the trouble or satisfy the complaint. **Upon reasonable notice, these** ~~These~~ records shall be made available to the Authority or its authorized representative. ~~upon request.~~

\* \* \*

1220-4-2-.04 Customer Refunds for Service Changes and ~~Delayed Installation of New Local Service~~

- ~~(1) In the event a customer's local service is disrupted and service is not restored within thirty (30) hours from the time of the report, the following adjustments or credits shall be automatically issued to the affected customer by the telecommunications service provider:~~

- ~~(a) If a disruption in service is caused by an act of God or civil disturbance, the customer's bill shall be adjusted on a prorated basis within two billing cycles of the date of disruption for the time the service is out.~~
- ~~(b) If a disruption in service is caused by any other reason not mentioned in 1220-4-2-.04(1)(a), the customer's bills shall be adjusted within two billing cycles of the date of interruption \$5.00 per day until the service is restored, unless a larger credit is allowed under the telecommunications service provider's approved tariffs. Such credit shall not exceed \$50.00 for any one (1) month.~~
- ~~(2) A telecommunications provider shall waive normal installation charges for its customers if it fails to install local service on the committed date. Normal installation charges do not include charges for work such as wiring inside the customer's residence or business.~~

In the event the customer's local service is interrupted other than by negligence or willful act of the customer, acts of God, or acts of a third party and it remains out of order in excess of 30 hours after being reported or commitment date given and agreed to by customer, appropriate adjustments or refunds shall be made to the customer, upon the customer's request. The refund to the customer shall be the pro rata part of the month's charges for the period of days and that portion of the service and facilities rendered useless or inoperative. The refund may be accomplished by a credit on the subsequent bill for telephone service.

*TDS TELECOM COMMENT: Compliance with this Rule would present some administrative issues involving manual searches – the identification of affected customers, absent customer notification. The company network monitoring capabilities would identify affected customers if remotes or switches went out of service. Absent this scenario and without customer notification, the company would not have knowledge of the affected customer.*

*In addition, any prospective refund should be limited to the existing tariffed rate. Under the TRA Staff proposed rules, the company would adjust the customer's bill by \$5.00 per day. For example the current tariff rate for Humphreys County Telephone Company's monthly residential line rate is \$5.25. Payments above the existing tariff rate may imply that the company intentionally did not restore service and could be deemed punitive in nature.*

\* \* \*

1220-4-2-.07 (1)(c) (Industry Version)

*TDS COMMENT: This rule would require the network management operation (including switching translations modification) to maintain and have available for rapid service deployment a complete network for all customers within a service area. The administrative resources needed for responding to an unpredictable number of customer soft dial tone requests and timing can only be logically based on units (work orders) and the service area location.*

\* \* \*

1220-4-2-.09 (Industry Version)

\* \* \*

- (6) White page directories shall contain instructions relative to placing local and long distance calls, calls to repair, billing questions, information services, and the mailing addresses of all local telecommunications service providers, **identified by the Tennessee Regulatory Authority as operating within incumbent local exchange area**, operating within the directory service area.

*TDS TELECOM Comment: The company is uncertain as to “all” local telecommunications service providers “operating” within the directory service area. The rule needs to be clarified as to the ILEC having knowledge of “all” service providers operating within the directory service area.*

\* \* \*

1220-4-2-.15 Adequacy of Service

Each ~~ETC~~ **TSP** shall ensure that adequate service is provided to its customers by properly maintaining its network facilities and implementing necessary engineering and administrative procedures.

*TDS TELECOM Comment: TDS TELECOM is unsure why the provision stated in the proposed rule “adequacy of service” would be limited to ETCs. Should customers served by service providers, other than ETCs, not be entitled to adequate service?*



Rules would not cover, and thus do not benefit, all of Tennessee's telecommunications consumers. Moreover, the proposed rules would significantly add to the regulatory burdens and operating costs borne by carriers, going beyond service standards to regulate virtually all manner of operations, without providing a means for recoupment of associated costs. Again, TDS Telecom currently meets and exceeds the existing service standards. The additional regulatory involvement and costs, at whatever level, simply are not warranted based on the TDS TELECOM's historical and current service performance level.

For all the reasons set forth above, the proposed Rules are not warranted at this time. Nonetheless, subject to those changes set forth above, TDS TELECOM joins other members of the telecommunications industry in the collective Industry Comments on Proposed Rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Grimes", is written over a horizontal line.

R. Dale Grimes

T. G. Pappas

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*Attorneys for TDS Telecom*

## CERTIFICATE OF SERVICE

I hereby certify a true and exact copy of the foregoing document has been served, via the method(s) indicated, on this the 26<sup>th</sup> day of October, 2001, on the following:

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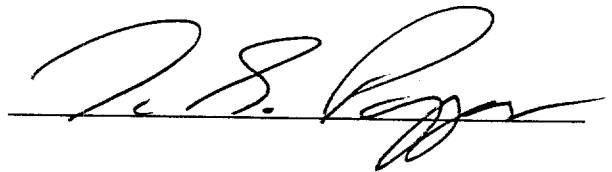
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A handwritten signature in black ink, appearing to read "T.C. Phillips", is written over a horizontal line.